

AMENDED IN ASSEMBLY APRIL 26, 2006

AMENDED IN ASSEMBLY APRIL 17, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2351

Introduced by Assembly Member Maze
(Coauthors: Assembly Members Cogdill, Houston, La Suer,
Leslie, Richman, and Spitzer)

February 23, 2006

An act to amend Section 31641.2 of, and to add Sections 20899.5, 23007.5, 31640.7, 34095, 45309.5, and 50035 to, the Government Code, relating to retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2351, as amended, Maze. Retirement: elected public officers: service credit.

Existing law provides for the creation and regulation of cities, counties, and cities and counties. Existing law permits these agencies to form retirement and pension systems, and also permits these agencies to become contracting members of the Public Employees' Retirement System. The Public Employees' Retirement System and the County Employees Retirement Law of 1937 permit certain members, under specified circumstances, to elect to receive additional service credit upon making required contributions. In this regard, the County Employees Retirement Law of 1937 permits a governing body to make portions of the required contributions on behalf of officers and employees.

This bill would prohibit the governing body of a city, county, or a city and county from granting credit for service to an elected officer or

member for service that the elected officer or member has not performed. The bill would further prohibit these governing bodies from paying contributions for credit for service if an elected officer or member has not performed the service, as specified. This bill would permit an elected officer to purchase additional service credit at his or her own expense, as specified. The bill would also make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 20899.5 is added to the Government
2 Code, to read:

3 20899.5. (a) An elective officer of a contracting agency that
4 is a city, county, or city and county shall not receive credit for
5 service or contributions for credit for service in violation of the
6 prohibitions provided in Section 23007.5, 34095, or 50035.

7 (b) *Nothing in this section shall prohibit an elective officer*
8 *from purchasing service credit pursuant to Section 20909.*

9 SEC. 2. Section 23007.5 is added to the Government Code, to
10 read:

11 23007.5. (a) Notwithstanding any other provision of law:

12 (1) A county shall not grant credit for service to an elective
13 officer or member of the board of supervisors for service that the
14 elective officer or member has not performed.

15 (2) A county shall not pay contributions for credit for service
16 if an elective officer or member has not performed the service,
17 regardless of the fact that the elective officer or member of the
18 board of supervisors may personally elect to contribute for
19 additional credit for service.

20 (b) The prohibition provided by this section does not preclude
21 an elective officer or member of the board of supervisors from
22 choosing to receive credit for service in a retirement system by
23 paying his or her own contributions for that purpose pursuant to
24 the applicable provisions of the retirement system.

25 SEC. 3. Section 31640.7 is added to the Government Code, to
26 read:

27 31640.7. (a) A member of a retirement system shall not
28 receive credit for service or contributions for credit for service in

1 violation of the prohibitions provided in Section 23007.5 or
2 50035.

3 (b) Nothing in this section shall prohibit an elective officer
4 from purchasing service credit pursuant to Section 31658.

5 SEC. 4. Section 31641.2 of the Government Code is amended
6 to read:

7 31641.2. Any member of the retirement system who elects
8 pursuant to Section 31641.1 to make contributions and receive
9 credit as service for time for which he or she claims credit
10 because of public service shall contribute to the retirement fund,
11 prior to the effective date of his or her retirement, by lump sum
12 payment or by installment payments over a period not to exceed
13 five years, an amount equal to the sum of:

14 (a) Twice the contributions he or she would have made to the
15 retirement fund if he or she had been a member during the same
16 length of time as that for which he or she has elected to receive
17 credit as service, computed by applying the rate of contribution
18 first applicable to him or her upon commencement of his or her
19 membership in this system to the monthly compensation first
20 earnable by him or her at the time as provided in Section
21 31641.3, multiplied by the number of months for which he or she
22 has elected to receive credit for county service, including time, if
23 any, prior to the establishment of the system, and which will
24 constitute current service under this system.

25 (b) The “regular interest” that would have accrued to the
26 member contributions if they had been made on the date used to
27 determine on what earnable compensation contributions pursuant
28 to this section shall be based, from that date until the completion
29 of payment of those contributions, computed at the current
30 interest rate.

31 (c) Except as prohibited by Section 31640.7, the governing
32 body by a four-fifths vote may provide that it shall make on
33 behalf of officers and employees eligible to receive credit for
34 prior service under this chapter, and who so elect prior to filing
35 an application for retirement, part of the contributions specified
36 in paragraphs (a) and (b) of this section. The contributions made
37 by a governmental agency pursuant to this section shall be
38 available only for purposes of retirement for service or for
39 disability and a member resigning from county service shall be

1 entitled to withdraw only that portion of his or her accumulated
2 contributions made by him or her.

3 SEC. 5. Section 34095 is added to the Government Code, to
4 read:

5 34095. (a) Notwithstanding any other provision of law:

6 (1) The legislative body of a city shall not grant credit for
7 service to an elective officer for service that the elective officer
8 has not performed.

9 (2) The legislative body of a city shall not pay contributions
10 for credit for service if an elective officer has not performed the
11 service, regardless of the fact that the elected officer may
12 personally elect to contribute for additional credit for service.

13 (b) The prohibition provided by this section does not preclude
14 an elective officer from choosing to receive credit for service in a
15 retirement system by paying his or her own contributions for that
16 purpose pursuant to the applicable provisions of the retirement
17 system.

18 SEC. 6. Section 45309.5 is added to the Government Code, to
19 read:

20 45309.5. A member of a pension or retirement system
21 established pursuant to this chapter shall not receive credit for
22 service or contributions for credit for service in violation of the
23 prohibitions provided in Section 34095 or Section 50035.

24 SEC. 7. Section 50035 is added to the Government Code, to
25 read:

26 50035. (a) Notwithstanding any other provision of law:

27 (1) The legislative body of a city, county, or city and county
28 shall not grant credit for service to an elective officer for service
29 that the elective officer has not performed.

30 (2) The legislative body of a city, county, or city and county
31 shall not pay contributions for credit for service if an elective
32 officer has not performed the service, regardless of the fact that
33 the elected officer may personally elect to contribute for
34 additional credit for service.

35 (b) The prohibition provided by this section does not preclude
36 an elective officer from choosing to receive credit for service in a
37 retirement system by paying his or her own contributions for that

- 1 purpose pursuant to the applicable provisions of the retirement
- 2 system.

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